



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-831

Fresh Garlic from the People's Republic of China: Final Rescission of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Huameng Imp & Exp Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("the Department") has conducted a new shipper review ("NSR") of Jinxiang Huameng Imp & Exp Co., Ltd. ("Huameng") regarding the antidumping duty order on fresh garlic from the People's Republic of China ("the PRC"). Based on our analysis of the comments received, we continue to find Huameng's sale is not *bona fide*. Consequently, the Department is rescinding this NSR.

DATES: Effective (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT Sean Carey, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3964.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2016, the Department published the preliminary results of this new shipper review.<sup>1</sup> The Department conducted a verification of Huameng's questionnaire responses from

---

<sup>1</sup> See *Fresh Garlic From the People's Republic of China: Preliminary Intent To Rescind the New Shipper Review of Jinxiang Huameng Imp & Exp Co., Ltd.*, 81 FR 33209 (May 25, 2016) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

September 19 to September 23, 2016, and issued a verification report on September 28, 2016.<sup>2</sup>

The review covers Huameng. The period of review (POR) is November 1, 2014, through April 30, 2015. A summary of the events that occurred since the Department published the *Preliminary Results*, as well as a full discussion of the issues raised by parties for this final determination, are found in the Issues and Decision Memorandum, dated concurrently with, and hereby adopted by, this notice.<sup>3</sup>

The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://iaaccess.trade.gov>, and is available to all parties in the Department's Central Records Unit, located in room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

#### Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves. The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. A full

---

<sup>2</sup> See Memorandum to the File, "Verification of the Sales and Factors Response of Jinxiang Huameng Import & Export Co., Ltd. in the New Shipper Review of Garlic from the People's Republic of China," dated September 28, 2016 (Huameng Verification Report), at 6-7.

<sup>3</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Issues and Decision Memorandum for the Final Results of Antidumping Duty Semiannual New Shipper Review on Fresh Garlic from the People's Republic of China: Jinxiang Huameng Imp & Exp Co., Ltd." issued concurrently with this notice (Issues and Decision Memorandum).

description of the scope of the order is contained in the Issues and Decision Memorandum.<sup>4</sup>

Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

#### Final Rescission of New Shipper Review

As explained in the Issues and Decision Memorandum and in the proprietary Huameng *Bona Fides* Memorandum<sup>5</sup> issued with the *Preliminary Results*, due to the totality of circumstances, including the atypical nature of the product that was sold, *i.e.*, single-clove garlic, the lack of proof of payment by Huameng's U.S. customer for payment of all its contractual expenses per the sales terms and for its subsequent purchase of non-subject merchandise, and, other circumstances indicating that Huameng's business operations were not profitable, we continue to find that Huameng's sale is not *bona fide* within the meaning of section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act). As a result, we are rescinding the new shipper review of Huameng.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that are raised in the briefs and addressed in the Issues and Decision Memorandum is in the Appendix of this notice.

#### Cash Deposit Requirements

Effective upon publication of the final rescission of the NSR of Huameng, the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Huameng. Cash deposits will be required for

---

<sup>4</sup> See the Issues and Decision Memorandum.

<sup>5</sup> See Memorandum to Edward Yang, Office Director, AD/CVD Operations, Office VII, "*Bona Fide* Nature of the Sale in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China (PRC): Jinxiang Huameng Imp & Exp Co., Ltd.," dated May 17, 2016 (*Bona Fide* Memorandum).

exports of subject merchandise by Huameng entered, or withdrawn from warehouse, for consumption on or after the publication date, at the PRC-wide rate.

#### Assessment Instructions

As the result of this rescission of the NSR of Huameng, the entries of Huameng covered by this NSR will be assessed at the cash deposit rate required at the time of entry, which is the PRC-wide rate.

#### Notification to Importers

This notice serves as final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary of Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. Return or

#### Destruction of Proprietary Information

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of business proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). We request timely written notification of return or destruction of APO materials or conversion to judicial protective order. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published this notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214.

---

Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

October 14, 2016  
Date

## **Appendix**

### **List of Topics Discussed in the Issues and Decision Memorandum**

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Issues

Comment 1a: Whether the Price of Huameng's Garlic Was Indicative of a *Bona Fide* Sale

Comment 1b: Evidence of Payment of Expenses Arising from the Transaction by Huameng's U.S. Customer

Comment 1c: Whether the Transaction Was Made on an Arm's Length Basis

Comment 1d: Whether Huameng's Business Operations Are Profitable

Comment 1e: Whether the Sale of Single-Clove Garlic is Typical

Comment 2: Whether Harmoni Qualifies as an Interested Party

Comment 3: Whether Huameng is Entitled to a Separate Rate

Comment 4: Whether Huameng Should Receive the PRC-Wide Cash Deposit Rate

Comment 5: Whether Huameng is Eligible to Participate in the New Shipper Review

5. Recommendation

[FR Doc. 2016-25675 Filed: 10/24/2016 8:45 am; Publication Date: 10/25/2016]